

110TH CONGRESS
1ST SESSION

S. 1136

To promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17, 2007

Mrs. MURRAY (for herself, Mr. BROWN, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Survivors’ Empowerment and Economic Security Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 101. Purposes.

Sec. 102. Entitlement to emergency leave for addressing domestic violence, dating violence, sexual assault, or stalking.

Sec. 103. Existing leave usable for addressing domestic violence, dating violence, sexual assault, or stalking.

Sec. 104. Emergency benefits.

Sec. 105. Effect on other laws and employment benefits.

Sec. 106. Regulations.

Sec. 107. Conforming amendment.

Sec. 108. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Purposes.

Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

Sec. 301. Short title.

Sec. 302. Purposes.

Sec. 303. Prohibited discriminatory acts.

Sec. 304. Enforcement.

Sec. 305. Attorney's fees.

Sec. 306. Regulations.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 401. Short title.

Sec. 402. Definitions.

Sec. 403. Discriminatory acts prohibited.

Sec. 404. Insurance protocols for subjects of abuse.

Sec. 405. Reasons for adverse actions.

Sec. 406. Life insurance.

Sec. 407. Subrogation without consent prohibited.

Sec. 408. Enforcement.

Sec. 409. Effective date.

TITLE V—SEVERABILITY

Sec. 501. Severability.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) Violence against women has been reported
4 to be the leading cause of physical injury to women.

1 Such violence has a devastating impact on women's
2 physical and emotional health, financial security,
3 and ability to maintain their jobs, and thus impacts
4 interstate commerce.

5 (2) Victims of domestic violence, dating vio-
6 lence, sexual assault, and stalking are particularly
7 vulnerable to changes in employment, pay, and bene-
8 fits, and as a result of their desperate need for eco-
9 nomic stability, are in particular need of legal pro-
10 tection.

11 (3) The Bureau of National Affairs has esti-
12 mated that domestic violence costs United States
13 employers between \$3,000,000,000 and
14 \$5,000,000,000 annually in lost time and produc-
15 tivity, while other reports have estimated the cost at
16 between \$5,800,000,000 and \$13,000,000,000 annu-
17 ally.

18 (4) United States medical costs for domestic vi-
19 olence have been estimated to be \$31,000,000,000
20 per year. The medical cost associated with each inci-
21 dent of domestic violence ranges from \$387 to \$948,
22 including costs of health care and mental health
23 services.

1 (5) Domestic violence crimes account for ap-
2 proximately 15 percent of total crime costs in the
3 United States each year.

4 (6)(A) According to the National Institute of
5 Justice, crime costs an estimated \$450,000,000,000
6 annually in medical expenses, lost earnings, social
7 service costs, pain, suffering, and reduced quality of
8 life for victims, which harms the Nation's produc-
9 tivity and drains the Nation's resources.

10 (B) Violent crime accounts for
11 \$426,000,000,000 per year of this amount.

12 (C) Rape exacts the highest costs per victim of
13 any criminal offense, and accounts for
14 \$127,000,000,000 per year of the amount described
15 in subparagraph (A).

16 (7) Violent crime results in wage losses equiva-
17 lent to 1 percent of all United States earnings, and
18 causes 3 percent of the Nation's medical spending
19 and 14 percent of the Nation's injury-related med-
20 ical spending.

21 (8) Homicide is the leading cause of death for
22 women on the job. Husbands, boyfriends, and ex-
23 partners commit 15 percent of workplace homicides
24 against women.

1 (9) According to a recent study by the National
2 Institutes of Health and Centers for Disease Control
3 and Prevention, each year there are 5,300,000 non-
4 fatal violent victimizations committed by intimate
5 partners against women. Female murder victims
6 were substantially more likely than male murder vic-
7 tims to have been killed by an intimate partner.
8 About $\frac{1}{3}$ of female murder victims, and about 4 per-
9 cent of male murder victims, were killed by an inti-
10 mate partner.

11 (10) Forty-nine percent of senior executives re-
12 cently surveyed said domestic violence has a harmful
13 effect on their company's productivity, 47 percent
14 said domestic violence negatively affects attendance,
15 and 44 percent said domestic violence increases
16 health care costs.

17 (11) Seventy-eight percent of human resources
18 professionals consider partner violence a workplace
19 issue. However, more than 70 percent of United
20 States workplaces have no formal program or policy
21 that addresses workplace violence, let alone domestic
22 violence. In fact, only 4 percent of employers pro-
23 vided training on domestic violence.

1 (12) Ninety-four percent of corporate security
2 and safety directors at companies nationwide rank
3 domestic violence as a high security concern.

4 (13) Women who have experienced domestic vi-
5 olence or dating violence are more likely than other
6 women to be unemployed, to suffer from health
7 problems that can affect employability and job per-
8 formance, to report lower personal income, and to
9 rely on welfare.

10 (14) Studies indicate that one of the best pre-
11 dictors of whether a victim will be able to stay away
12 from her abuser is her degree of economic independ-
13 ence. However, domestic violence, dating violence,
14 sexual assault, and stalking often negatively impact
15 a victim's ability to maintain employment.

16 (15) According to a 1998 report of the General
17 Accounting Office, between $\frac{1}{4}$ and $\frac{1}{2}$ of domestic
18 violence victims surveyed in 3 studies reported that
19 they lost a job due, at least in part, to domestic vio-
20 lence.

21 (16) Employees in the United States who have
22 been victims of domestic violence, dating violence,
23 sexual assault, or stalking too often suffer adverse
24 consequences in the workplace as a result of their
25 victimization.

1 (17) Domestic violence also affects abusers'
2 ability to work. A recent study found that 48 per-
3 cent of abusers reported having difficulty concen-
4 trating at work and 42 percent reported being late
5 to work. Seventy-eight percent reported using their
6 own company's resources in connection with the abu-
7 sive relationship.

8 (18) Abusers frequently seek to exert financial
9 control over their partners by actively interfering
10 with their ability to work, including preventing their
11 partners from going to work, harassing their part-
12 ners at work, limiting the access of their partners to
13 cash or transportation, and sabotaging the child care
14 arrangements of their partners.

15 (19) Studies indicate that between 35 and 56
16 percent of employed battered women surveyed were
17 harassed at work by their abusive partners.

18 (20) More than $\frac{1}{2}$ of women receiving welfare
19 have been victims of domestic violence as adults and
20 between $\frac{1}{4}$ and $\frac{1}{3}$ of women receiving welfare re-
21 ported being abused in the last year.

22 (21) Victims of domestic violence also fre-
23 quently miss work due to injuries, court dates, and
24 safety concerns requiring legal protections. Victims
25 of intimate partner violence lose 8,000,000 days of

1 paid work each year, the equivalent of over 32,000
2 full-time jobs and 5,600,000 days of household pro-
3 ductivity.

4 (22) Approximately 10,200,000 people have
5 been stalked at some time in their lives. Four out of
6 every 5 stalking victims are women. Stalkers harass
7 and terrorize their victims by spying on the victims,
8 standing outside their places of work or homes, mak-
9 ing unwanted phone calls, sending or leaving un-
10 wanted letters or items, or vandalizing property.

11 (23) More than 35 percent of stalking victims
12 report losing time from work due to the stalking and
13 7 percent never return to work.

14 (24) The prevalence of sexual assault and other
15 violence against women at work is also dramatic.
16 About 36,500 individuals, 80 percent of whom are
17 women, were raped or sexually assaulted in the
18 workplace each year from 1993 through 1999. Half
19 of all female victims of violent workplace crimes
20 know their attackers. Nearly 1 out of 10 violent
21 workplace incidents are committed by partners or
22 spouses. Women who work for State and local gov-
23 ernments suffer a higher incidence of workplace as-
24 saults, including rapes, than women who work in the
25 private sector.

1 (25) According to recent government estimates,
2 approximately 987,400 rapes occur annually in the
3 United States, with 89 percent of the rapes per-
4 petrated against female victims. Since 2001, rapes
5 have actually increased by 4 percent.

6 (26) Sexual assault, whether occurring in or out
7 of the workplace, can impair an employee's work
8 performance, require time away from work, and un-
9 dermine the employee's ability to maintain a job. Al-
10 most 50 percent of sexual assault survivors lose their
11 jobs or are forced to quit in the aftermath of the as-
12 saults. An estimated 24 to 30 percent of abused
13 working women lose their jobs due to their abuse.

14 (27) Domestic and sexual violence victims have
15 been subjected to discrimination by private and
16 State employers, including discrimination motivated
17 by sex and stereotypic notions about women.

18 (28) Domestic violence victims and third parties
19 who help them have been subjected to discriminatory
20 practices by health, life, disability, and property and
21 casualty insurers and employers who self-insure em-
22 ployee benefits, who have denied or canceled cov-
23 erage, rejected claims, and raised rates based on do-
24 mestic violence. Although some State legislatures
25 have tried to address those practices, the scope of

1 protection afforded by the laws adopted varies from
2 State to State, with many failing to address the
3 problem involved comprehensively. Moreover, Federal
4 law prevents States from protecting the almost 40
5 percent of employees whose employers self-insure
6 employee benefits.

7 (29) No States, with the exception of Illinois,
8 prohibit employment discrimination against all vic-
9 tims of domestic violence, sexual assault, or stalking.

10 (30) Employees, including individuals partici-
11 pating in welfare-to-work programs, may need to
12 take time during business hours to—

13 (A) obtain orders of protection;

14 (B) seek medical or legal assistance, coun-
15 seling, or other services; or

16 (C) look for housing in order to escape
17 from domestic violence.

18 (31) Only 8 States provide domestic violence
19 victims with leave from work to go to court, to go
20 to the doctor, or to take other steps to address the
21 domestic violence in their lives.

22 (32) Only 27 States and the District of Colum-
23 bia have laws that explicitly provide unemployment
24 insurance to domestic violence victims in certain cir-

1 cumstances, and none of the laws explicitly cover vic-
2 tims of sexual assault or stalking.

3 (33) Existing Federal law does not explicitly—

4 (A) authorize victims of domestic violence,
5 dating violence, sexual assault, or stalking to
6 take leave from work to seek legal assistance
7 and redress, counseling, or assistance with safe-
8 ty planning activities;

9 (B) address the eligibility of victims of do-
10 mestic violence, dating violence, sexual assault,
11 or stalking for unemployment compensation;

12 (C) prohibit employment discrimination
13 against actual or perceived victims of domestic
14 violence, dating violence, sexual assault, or
15 stalking; or

16 (D)(i) prohibit insurers and employers who
17 self-insure employee benefits from discrimi-
18 nating against domestic violence victims and
19 those who help them in determining eligibility,
20 rates charged, and standards for payment of
21 claims; or

22 (ii) prohibit insurers from disclosing infor-
23 mation about abuse and the location of the vic-
24 tims through insurance databases and other
25 means.

1 **SEC. 3. DEFINITIONS.**

2 In this Act, except as otherwise expressly provided:

3 (1) **COMMERCE.**—The terms “commerce” and
4 “industry or activity affecting commerce” have the
5 meanings given the terms in section 101 of the
6 Family and Medical Leave Act of 1993 (29 U.S.C.
7 2611).

8 (2) **COURSE OF CONDUCT.**—The term “course
9 of conduct” means a course of repeatedly maintain-
10 ing a visual or physical proximity to a person or con-
11 veying verbal or written threats, including threats
12 conveyed through electronic communications, or
13 threats implied by conduct.

14 (3) **DATING VIOLENCE.**—The term “dating vio-
15 lence” has the meaning given the term in section
16 40002 of the Violence Against Women Act of 1994
17 (42 U.S.C. 13925).

18 (4) **DOMESTIC VIOLENCE.**—The term “domestic
19 violence” has the meaning given the term in section
20 40002 of the Violence Against Women Act of 1994
21 (42 U.S.C. 13925).

22 (5) **DOMESTIC VIOLENCE COALITION.**—The
23 term “domestic violence coalition” means a non-
24 profit, nongovernmental membership organization
25 that—

1 (A) consists of the entities carrying out a
2 majority of the domestic violence programs car-
3 ried out within a State;

4 (B) collaborates and coordinates activities
5 with Federal, State, and local entities to further
6 the purposes of domestic violence intervention
7 and prevention; and

8 (C) among other activities, provides train-
9 ing and technical assistance to entities carrying
10 out domestic violence programs within a State,
11 territory, political subdivision, or area under
12 Federal authority.

13 (6) ELECTRONIC COMMUNICATIONS.—The term
14 “electronic communications” includes communica-
15 tions via telephone (including mobile phone), com-
16 puter, e-mail, video recorder, fax machine, telex, or
17 pager.

18 (7) EMPLOY; STATE.—The terms “employ” and
19 “State” have the meanings given the terms in sec-
20 tion 3 of the Fair Labor Standards Act of 1938 (29
21 U.S.C. 203).

22 (8) EMPLOYEE.—

23 (A) IN GENERAL.—The term “employee”
24 means any person employed by an employer. In
25 the case of an individual employed by a public

1 agency, such term means an individual em-
2 ployed as described in section 3(e)(2) of the
3 Fair Labor Standards Act of 1938 (29 U.S.C.
4 203(e)(2)).

5 (B) BASIS.—The term includes a person
6 employed as described in subparagraph (A) on
7 a full- or part-time basis, for a fixed time pe-
8 riod, on a temporary basis, pursuant to a detail,
9 or as a participant in a work assignment as a
10 condition of receipt of Federal or State income-
11 based public assistance.

12 (9) EMPLOYER.—The term “employer”—

13 (A) means any person engaged in com-
14 merce or in any industry or activity affecting
15 commerce who employs 15 or more individuals;
16 and

17 (B) includes any person acting directly or
18 indirectly in the interest of an employer in rela-
19 tion to an employee, and includes a public agen-
20 cy that employs individuals as described in sec-
21 tion 3(e)(2) of the Fair Labor Standards Act of
22 1938, but does not include any labor organiza-
23 tion (other than when acting as an employer) or
24 anyone acting in the capacity of officer or agent
25 of such labor organization.

1 (10) EMPLOYMENT BENEFITS.—The term “em-
2 ployment benefits” means all benefits provided or
3 made available to employees by an employer, includ-
4 ing group life insurance, health insurance, disability
5 insurance, sick leave, annual leave, educational bene-
6 fits, and pensions, regardless of whether such bene-
7 fits are provided by a practice or written policy of
8 an employer or through an “employee benefit plan”,
9 as defined in section 3(3) of the Employee Retirement
10 Income Security Act of 1974 (29 U.S.C.
11 1002(3)).

12 (11) FAMILY OR HOUSEHOLD MEMBER.—The
13 term “family or household member”, used with re-
14 spect to a person, means a nonabusive individual
15 who is a spouse, former spouse, parent, son or
16 daughter, or person residing or formerly residing in
17 the same dwelling unit as the person.

18 (12) PARENT; SON OR DAUGHTER.—The terms
19 “parent” and “son or daughter” have the meanings
20 given the terms in section 101 of the Family and
21 Medical Leave Act of 1993 (29 U.S.C. 2611).

22 (13) PERSON.—The term “person” has the
23 meaning given the term in section 3 of the Fair
24 Labor Standards Act of 1938 (29 U.S.C. 203).

1 (14) PUBLIC AGENCY.—The term “public agen-
2 cy” has the meaning given the term in section 3 of
3 the Fair Labor Standards Act of 1938 (29 U.S.C.
4 203).

5 (15) PUBLIC ASSISTANCE.—The term “public
6 assistance” includes cash, food stamps, medical as-
7 sistance, housing assistance, and other benefits pro-
8 vided on the basis of income by a public agency.

9 (16) REDUCED LEAVE SCHEDULE.—The term
10 “reduced leave schedule” means a leave schedule
11 that reduces the usual number of hours per work-
12 week, or hours per workday, of an employee.

13 (17) REPEATEDLY.—The term “repeatedly”
14 means on 2 or more occasions.

15 (18) SECRETARY.—The term “Secretary”
16 means the Secretary of Labor.

17 (19) SEXUAL ASSAULT.—The term “sexual as-
18 sault” has the meaning given the term in section
19 40002 of the Violence Against Women Act of 1994
20 (42 U.S.C. 13925).

21 (20) SEXUAL ASSAULT COALITION.—The term
22 “sexual assault coalition” means a nonprofit, non-
23 governmental membership organization that—

1 (A) consists of the entities carrying out a
2 majority of the sexual assault programs carried
3 out within a State;

4 (B) collaborates and coordinates activities
5 with Federal, State, and local entities to further
6 the purposes of sexual assault intervention and
7 prevention; and

8 (C) among other activities, provides train-
9 ing and technical assistance to entities carrying
10 out sexual assault programs within a State, ter-
11 ritory, political subdivision, or area under Fed-
12 eral authority.

13 (21) STALKING.—The term “stalking” has the
14 meaning given the term in section 40002 of the Vio-
15 lence Against Women Act of 1994 (42 U.S.C.
16 13925).

17 (22) VICTIM OF DOMESTIC VIOLENCE, DATING
18 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The
19 term “victim of domestic violence, dating violence,
20 sexual assault, or stalking” includes a person who
21 has been a victim of domestic violence, dating vio-
22 lence, sexual assault, or stalking and a person whose
23 family or household member has been a victim of do-
24 mestic violence, dating violence, sexual assault, or
25 stalking.

1 (23) VICTIM SERVICES ORGANIZATION.—The
 2 term “victim services organization” means a non-
 3 profit, nongovernmental organization that provides
 4 assistance to victims of domestic violence, dating vio-
 5 lence, sexual assault, or stalking, or to advocates for
 6 such victims, including a rape crisis center, an orga-
 7 nization carrying out a domestic violence program,
 8 an organization operating a shelter or providing
 9 counseling services, or an organization providing as-
 10 sistance through the legal process.

11 **TITLE I—ENTITLEMENT TO**
 12 **EMERGENCY LEAVE FOR AD-**
 13 **DRESSING DOMESTIC VIO-**
 14 **LENCE, DATING VIOLENCE,**
 15 **SEXUAL ASSAULT, OR STALK-**
 16 **ING**

17 **SEC. 101. PURPOSES.**

18 The purposes of this title are, pursuant to the affirm-
 19 ative power of Congress to enact legislation under the por-
 20 tions of section 8 of article I of the Constitution relating
 21 to providing for the general welfare and to regulation of
 22 commerce among the several States, and under section 5
 23 of the 14th amendment to the Constitution—

24 (1) to promote the national interest in reducing
 25 domestic violence, dating violence, sexual assault,

1 and stalking by enabling victims of domestic vio-
2 lence, dating violence, sexual assault, or stalking to
3 maintain the financial independence necessary to
4 leave abusive situations, achieve safety, and mini-
5 mize the physical and emotional injuries from do-
6 mestic violence, dating violence, sexual assault, or
7 stalking, and to reduce the devastating economic
8 consequences of domestic violence, dating violence,
9 sexual assault, or stalking to employers and employ-
10 ees;

11 (2) to promote the national interest in ensuring
12 that victims of domestic violence, dating violence,
13 sexual assault, or stalking can recover from and cope
14 with the effects of domestic violence, dating violence,
15 sexual assault, or stalking, and participate in crimi-
16 nal and civil justice processes, without fear of ad-
17 verse economic consequences from their employers;

18 (3) to ensure that victims of domestic violence,
19 dating violence, sexual assault, or stalking can re-
20 cover from and cope with the effects of domestic vio-
21 lence, dating violence, sexual assault, or stalking,
22 and participate in criminal and civil justice proc-
23 esses, without fear of adverse economic consequences
24 with respect to public benefits;

1 (4) to promote the purposes of the 14th amend-
2 ment by preventing sex-based discrimination and
3 discrimination against victims of domestic violence,
4 dating violence, sexual assault, or stalking in em-
5 ployment leave, by addressing the failure of existing
6 laws to protect the employment rights of victims of
7 domestic violence, dating violence, sexual assault, or
8 stalking, by protecting their civil and economic
9 rights, and by furthering the equal opportunity of
10 women for economic self-sufficiency and employment
11 free from discrimination;

12 (5) to minimize the negative impact on inter-
13 state commerce from dislocations of employees and
14 harmful effects on productivity, employment, health
15 care costs, and employer costs, caused by domestic
16 violence, dating violence, sexual assault, or stalking,
17 including intentional efforts to frustrate women's
18 ability to participate in employment and interstate
19 commerce;

20 (6) to further the goals of human rights and
21 dignity reflected in instruments such as the Charter
22 of the United Nations, the Universal Declaration of
23 Human Rights, and the International Covenant on
24 Civil and Political Rights; and

(7) to accomplish the purposes described in paragraphs (1) through (6) by—

(A) entitling employed victims of domestic violence, dating violence, sexual assault, or stalking to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic violence, dating violence, sexual assault, or stalking may take leave from work to address domestic violence, dating violence, sexual assault, or stalking, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries

1 caused by domestic violence, dating violence,
2 sexual assault, or stalking to the employee or
3 the employee's family or household member;

4 (B) obtaining services from a victim serv-
5 ices organization for the employee or the em-
6 ployee's family or household member;

7 (C) obtaining psychological or other coun-
8 seling for the employee or the employee's family
9 or household member;

10 (D) participating in safety planning, tem-
11 porarily or permanently relocating, or taking
12 other actions to increase the safety of the em-
13 ployee or the employee's family or household
14 member from future domestic violence, dating
15 violence, sexual assault, or stalking or ensure
16 economic security; or

17 (E) seeking legal assistance or remedies to
18 ensure the health and safety of the employee or
19 the employee's family or household member, in-
20 cluding preparing for or participating in any
21 civil or criminal legal proceeding related to or
22 derived from domestic violence, dating violence,
23 sexual assault, or stalking.

1 (2) PERIOD.—An employee may take not more
2 than 30 days of leave, as described in paragraph (1),
3 in any 12-month period.

4 (3) SCHEDULE.—Leave described in paragraph
5 (1) may be taken intermittently or on a reduced
6 leave schedule.

7 (b) NOTICE.—The employee shall provide the em-
8 ployer with reasonable notice of the employee’s intention
9 to take the leave, unless providing such notice is not prac-
10 ticable.

11 (c) CERTIFICATION.—

12 (1) IN GENERAL.—The employer may require
13 the employee to provide certification to the employer,
14 within a reasonable period after the employer re-
15 quests the certification, that—

16 (A) the employee or the employee’s family
17 or household member is a victim of domestic vi-
18 olence, dating violence, sexual assault, or stalk-
19 ing; and

20 (B) the leave is for 1 of the purposes enu-
21 merated in subsection (a)(1).

22 (2) CONTENTS.—An employee may satisfy the
23 certification requirement of paragraph (1) by pro-
24 viding to the employer—

25 (A) a sworn statement of the employee;

1 (B) documentation from an employee,
 2 agent, or volunteer of a victim services organi-
 3 zation, an attorney, a member of the clergy, or
 4 a medical or other professional, from whom the
 5 employee or the employee's family or household
 6 member has sought assistance in addressing do-
 7 mestic violence, dating violence, sexual assault,
 8 or stalking and the effects of domestic violence,
 9 dating violence, sexual assault, or stalking;

10 (C) a police or court record; or

11 (D) other corroborating evidence.

12 (d) CONFIDENTIALITY.—All information provided to
 13 the employer pursuant to subsection (b) or (c), including
 14 a statement of the employee or any other documentation,
 15 record, or corroborating evidence, and the fact that the
 16 employee has requested or obtained leave pursuant to this
 17 section, shall be retained in the strictest confidence by the
 18 employer, except to the extent that disclosure is—

19 (1) requested or consented to by the employee
 20 in writing; or

21 (2) otherwise required by applicable Federal or
 22 State law.

23 (e) EMPLOYMENT AND BENEFITS.—

24 (1) RESTORATION TO POSITION.—

1 (A) IN GENERAL.—Except as provided in
2 paragraph (2), any employee who takes leave
3 under this section for the intended purpose of
4 the leave shall be entitled, on return from such
5 leave—

6 (i) to be restored by the employer to
7 the position of employment held by the em-
8 ployee when the leave commenced; or

9 (ii) to be restored to an equivalent po-
10 sition with equivalent employment benefits,
11 pay, and other terms and conditions of em-
12 ployment.

13 (B) LOSS OF BENEFITS.—The taking of
14 leave under this section shall not result in the
15 loss of any employment benefit accrued prior to
16 the date on which the leave commenced.

17 (C) LIMITATIONS.—Nothing in this sub-
18 section shall be construed to entitle any re-
19 stored employee to—

20 (i) the accrual of any seniority or em-
21 ployment benefits during any period of
22 leave; or

23 (ii) any right, benefit, or position of
24 employment other than any right, benefit,
25 or position to which the employee would

1 have been entitled had the employee not
2 taken the leave.

3 (D) CONSTRUCTION.—Nothing in this
4 paragraph shall be construed to prohibit an em-
5 ployer from requiring an employee on leave
6 under this section to report periodically to the
7 employer on the status and intention of the em-
8 ployee to return to work.

9 (2) EXEMPTION CONCERNING CERTAIN HIGHLY
10 COMPENSATED EMPLOYEES.—

11 (A) DENIAL OF RESTORATION.—An em-
12 ployer may deny restoration under paragraph
13 (1) to any employee described in subparagraph
14 (B) if—

15 (i) such denial is necessary to prevent
16 substantial and grievous economic injury to
17 the operations of the employer;

18 (ii) the employer notifies the employee
19 of the intent of the employer to deny res-
20 toration on such basis at the time the em-
21 ployer determines that such injury would
22 occur; and

23 (iii) in any case in which the leave has
24 commenced, the employee elects not to re-

1 turn to employment after receiving such
2 notice.

3 (B) AFFECTED EMPLOYEES.—An employee
4 referred to in subparagraph (A) is a salaried
5 employee who is among the highest paid 10 per-
6 cent of the employees employed by the employer
7 within 75 miles of the facility at which the em-
8 ployee is employed.

9 (3) MAINTENANCE OF HEALTH BENEFITS.—

10 (A) COVERAGE.—Except as provided in
11 subparagraph (B), during any period that an
12 employee takes leave under this section, the em-
13 ployer shall maintain coverage under any group
14 health plan (as defined in section 5000(b)(1) of
15 the Internal Revenue Code of 1986) for the du-
16 ration of such leave at the level and under the
17 conditions coverage would have been provided if
18 the employee had continued in employment con-
19 tinuously for the duration of such leave.

20 (B) FAILURE TO RETURN FROM LEAVE.—

21 The employer may recover the premium that
22 the employer paid for maintaining coverage for
23 the employee under such group health plan dur-
24 ing any period of leave under this section if—

1 (i) the employee fails to return from
2 leave under this section after the period of
3 leave to which the employee is entitled has
4 expired; and

5 (ii) the employee fails to return to
6 work for a reason other than—

7 (I) the continuation of, recur-
8 rence of, or onset of an episode of do-
9 mestic violence, dating violence, sexual
10 assault, or stalking, that entitles the
11 employee to leave pursuant to this
12 section; or

13 (II) other circumstances beyond
14 the control of the employee.

15 (C) CERTIFICATION.—

16 (i) ISSUANCE.—An employer may re-
17 quire an employee who claims that the em-
18 ployee is unable to return to work because
19 of a reason described in subclause (I) or
20 (II) of subparagraph (B)(ii) to provide,
21 within a reasonable period after making
22 the claim, certification to the employer
23 that the employee is unable to return to
24 work because of that reason.

1 (ii) CONTENTS.—An employee may
2 satisfy the certification requirement of
3 clause (i) by providing to the employer—

4 (I) a sworn statement of the em-
5 ployee;

6 (II) documentation from an em-
7 ployee, agent, or volunteer of a victim
8 services organization, an attorney, a
9 member of the clergy, or a medical or
10 other professional, from whom the
11 employee or the employee's family or
12 household member has sought assist-
13 ance in addressing domestic violence,
14 dating violence, sexual assault, or
15 stalking and the effects of domestic
16 violence, dating violence, sexual as-
17 sault, or stalking;

18 (III) a police or court record; or

19 (IV) other corroborating evi-
20 dence.

21 (D) CONFIDENTIALITY.—All information
22 provided to the employer pursuant to subpara-
23 graph (C), including a statement of the em-
24 ployee or any other documentation, record, or
25 corroborating evidence, and the fact that the

employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

1 (ii) opposed any practice made unlaw-
2 ful by this section.

3 (C) PUBLIC AGENCY SANCTIONS.—It shall
4 be unlawful for any public agency to deny, re-
5 duce, or terminate the benefits of, otherwise
6 sanction, or harass any individual, or otherwise
7 discriminate against any individual (including
8 retaliation in any form or manner) with respect
9 to the amount, terms, or conditions of public
10 assistance of the individual because the indi-
11 vidual—

12 (i) exercised any right provided under
13 this section; or

14 (ii) opposed any practice made unlaw-
15 ful by this section.

16 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
17 QUIRIES.—It shall be unlawful for any person to dis-
18 charge or in any other manner discriminate (as de-
19 scribed in subparagraph (B) or (C) of paragraph
20 (1)) against any individual because such indi-
21 vidual—

22 (A) has filed any charge, or has instituted
23 or caused to be instituted any proceeding,
24 under or related to this section;

1 (B) has given, or is about to give, any in-
 2 formation in connection with any inquiry or
 3 proceeding relating to any right provided under
 4 this section; or

5 (C) has testified, or is about to testify, in
 6 any inquiry or proceeding relating to any right
 7 provided under this section.

8 (g) ENFORCEMENT.—

9 (1) CIVIL ACTION BY AFFECTED INDIVID-
 10 UALS.—

11 (A) LIABILITY.—Any employer that vio-
 12 lates subsection (f) shall be liable to any indi-
 13 vidual affected—

14 (i) for damages equal to—

15 (I) the amount of—

16 (aa) any wages, salary, em-
 17 ployment benefits, or other com-
 18 pensation denied or lost to such
 19 individual by reason of the viola-
 20 tion; or

21 (bb) in a case in which
 22 wages, salary, employment bene-
 23 fits, or other compensation has
 24 not been denied or lost to the in-
 25 dividual, any actual monetary

1 losses sustained by the individual
2 as a direct result of the violation;

3 (II) the interest on the amount
4 described in subclause (I) calculated
5 at the prevailing rate; and

6 (III) an additional amount as liq-
7 uidated damages equal to the sum of
8 the amount described in subclause (I)
9 and the interest described in sub-
10 clause (II), except that if an employer
11 that has violated subsection (f) proves
12 to the satisfaction of the court that
13 the act or omission that violated sub-
14 section (f) was in good faith and that
15 the employer had reasonable grounds
16 for believing that the act or omission
17 was not a violation of subsection (f),
18 such court may, in the discretion of
19 the court, reduce the amount of the li-
20 ability to the amount and interest de-
21 termined under subclauses (I) and
22 (II), respectively; and

23 (ii) for such equitable relief as may be
24 appropriate, including employment, rein-
25 statement, and promotion.

1 (B) RIGHT OF ACTION.—An action to re-
2 cover the damages or equitable relief prescribed
3 in subparagraph (A) may be maintained against
4 any employer in any Federal or State court of
5 competent jurisdiction by any 1 or more af-
6 fected individuals for and on behalf of—

7 (i) the individuals; or

8 (ii) the individuals and other individ-
9 uals similarly situated.

10 (C) FEES AND COSTS.—The court in such
11 an action shall, in addition to any judgment
12 awarded to the plaintiff, allow a reasonable at-
13 torney's fee, reasonable expert witness fees, and
14 other costs of the action to be paid by the de-
15 fendant.

16 (D) LIMITATIONS.—The right provided by
17 subparagraph (B) to bring an action by or on
18 behalf of any affected individual shall termi-
19 nate—

20 (i) on the filing of a complaint by the
21 Secretary in an action under paragraph (4)
22 in which restraint is sought of any further
23 delay in the payment of the amount de-
24 scribed in subparagraph (A)(i) to such in-

dividual by an employer responsible under
subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the
Secretary in an action under paragraph (2)
in which a recovery is sought of the dam-
ages described in subparagraph (A)(i)
owing to an affected individual by an em-
ployer liable under subparagraph (A),

unless the action described in clause (i) or (ii)
is dismissed without prejudice on motion of the
Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Sec-
retary shall receive, investigate, and attempt to
resolve complaints of violations of subsection (f)
in the same manner as the Secretary receives,
investigates, and attempts to resolve complaints
of violations of sections 6 and 7 of the Fair
Labor Standards Act of 1938 (29 U.S.C. 206
and 207).

(B) CIVIL ACTION.—The Secretary may
bring an action in any court of competent juris-
diction to recover the damages described in
paragraph (1)(A)(i).

1 (C) SUMS RECOVERED.—Any sums recov-
2 ered by the Secretary pursuant to subparagraph
3 (B) shall be held in a special deposit account
4 and shall be paid, on order of the Secretary, di-
5 rectly to each individual affected. Any such
6 sums not paid to such an individual because of
7 inability to do so within a period of 3 years
8 shall be deposited into the Treasury of the
9 United States as miscellaneous receipts.

10 (3) LIMITATION.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), an action may be brought
13 under this subsection not later than 2 years
14 after the date of the last event constituting the
15 alleged violation for which the action is brought.

16 (B) WILLFUL VIOLATION.—In the case of
17 such action brought for a willful violation of
18 subsection (f), such action may be brought
19 within 3 years after the date of the last event
20 constituting the alleged violation for which such
21 action is brought.

22 (C) COMMENCEMENT.—In determining
23 when an action is commenced by the Secretary
24 under this subsection for the purposes of this

1 paragraph, it shall be considered to be com-
2 menced on the date when the complaint is filed.

3 (4) ACTION FOR INJUNCTION BY SECRETARY.—

4 The district courts of the United States shall have
5 jurisdiction, for cause shown, in an action brought
6 by the Secretary—

7 (A) to restrain violations of subsection (f),
8 including the restraint of any withholding of
9 payment of wages, salary, employment benefits,
10 or other compensation, plus interest, found by
11 the court to be due to affected individuals; or

12 (B) to award such other equitable relief as
13 may be appropriate, including employment, re-
14 instatement, and promotion.

15 (5) SOLICITOR OF LABOR.—The Solicitor of
16 Labor may appear for and represent the Secretary
17 on any litigation brought under this subsection.

18 (6) EMPLOYER LIABILITY UNDER OTHER
19 LAWS.—Nothing in this section shall be construed to
20 limit the liability of an employer or public agency to
21 an individual, for harm suffered relating to the indi-
22 vidual's experience of domestic violence, dating vio-
23 lence, sexual assault, or stalking, pursuant to any
24 other Federal or State law, including a law providing
25 for a legal remedy.

1 (7) LIBRARY OF CONGRESS.—Notwithstanding
2 any other provision of this subsection, in the case of
3 the Library of Congress, the authority of the Sec-
4 retary under this subsection shall be exercised by the
5 Librarian of Congress.

6 (8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

7 (A) AGENCIES.—Notwithstanding any
8 other provision of this subsection, in the case of
9 a public agency that employs individuals as de-
10 scribed in subparagraph (A) or (B) of section
11 3(e)(2) of the Fair Labor Standards Act of
12 1938 (29 U.S.C. 203(e)(2)) (other than an en-
13 tity of the legislative branch of the Federal
14 Government), subparagraph (B) shall apply.

15 (B) AUTHORITY.—In the case described in
16 subparagraph (A), the powers, remedies, and
17 procedures provided in the case of a violation of
18 chapter 63 of title 5, United States Code, in
19 that title to an employing agency, in chapter 12
20 of that title to the Merit Systems Protection
21 Board, or in that title to any person alleging a
22 violation of chapter 63 of that title, shall be the
23 powers, remedies, and procedures this sub-
24 section provides in the case of a violation of
25 subsection (f) to that agency, that Board, or

1 any person alleging a violation of subsection (f),
 2 respectively, against an employee who is such
 3 an individual.

4 (9) PUBLIC AGENCIES PROVIDING PUBLIC AS-
 5 SISTANCE.—Consistent with regulations prescribed
 6 under section 106(d), the President shall ensure that
 7 any public agency that violates subsection (f)(1)(C),
 8 or subsection (f)(2) by discriminating as described in
 9 subsection (f)(1)(C), shall provide to any individual
 10 who receives a less favorable amount, term, or condi-
 11 tion of public assistance as a result of the viola-
 12 tion—

13 (A)(i) the amount of any public assistance
 14 denied or lost to such individual by reason of
 15 the violation; and

16 (ii) the interest on the amount described in
 17 clause (i); and

18 (B) such equitable relief as may be appro-
 19 priate.

20 **SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-**
 21 **MESTIC VIOLENCE, DATING VIOLENCE, SEX-**
 22 **UAL ASSAULT, OR STALKING.**

23 An employee who is entitled to take paid or unpaid
 24 leave (including family, medical, sick, annual, personal, or
 25 similar leave) from employment, pursuant to State or local

1 law, a collective bargaining agreement, or an employment
 2 benefits program or plan, may elect to substitute any pe-
 3 riod of such leave for an equivalent period of leave pro-
 4 vided under section 102.

5 **SEC. 104. EMERGENCY BENEFITS.**

6 (a) IN GENERAL.—A State may use funds provided
 7 to the State under part A of title IV of the Social Security
 8 Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-
 9 term emergency benefits to an individual for any period
 10 of leave the individual takes pursuant to section 102.

11 (b) ELIGIBILITY.—In calculating the eligibility of an
 12 individual for such emergency benefits, the State shall
 13 count only the cash available or accessible to the indi-
 14 vidual.

15 (c) TIMING.—

16 (1) APPLICATIONS.—An individual seeking
 17 emergency benefits under subsection (a) from a
 18 State shall submit an application to the State.

19 (2) BENEFITS.—The State shall provide bene-
 20 fits to an eligible applicant under paragraph (1) on
 21 an expedited basis, and not later than 7 days after
 22 the applicant submits an application under para-
 23 graph (1).

1 (d) CONFORMING AMENDMENT.—Section 404 of the
 2 Social Security Act (42 U.S.C. 604) is amended by adding
 3 at the end the following:

4 “(l) AUTHORITY TO PROVIDE EMERGENCY BENE-
 5 FITS.—A State that receives a grant under section 403
 6 may use the grant to provide nonrecurrent short-term
 7 emergency benefits, in accordance with section 104 of the
 8 Survivors’ Empowerment and Economic Security Act, to
 9 individuals who take leave pursuant to section 102 of that
 10 Act, without regard to whether the individuals receive as-
 11 sistance under the State program funded under this
 12 part.”.

13 **SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-**
 14 **EFITS.**

15 (a) MORE PROTECTIVE LAWS, AGREEMENTS, PRO-
 16 GRAMS, AND PLANS.—Nothing in this title shall be con-
 17 strued to supersede any provision of any Federal, State,
 18 or local law, collective bargaining agreement, or employ-
 19 ment benefits program or plan that provides—

- 20 (1) greater leave benefits for victims of domes-
 21 tic violence, dating violence, sexual assault, or stalk-
 22 ing than the rights established under this title; or
 23 (2) leave benefits for a larger population of vic-
 24 tims of domestic violence, dating violence, sexual as-
 25 sault, or stalking (as defined in such law, agreement,

1 program, or plan) than the victims of domestic vio-
 2 lence, dating violence, sexual assault, or stalking
 3 covered under this title.

4 (b) LESS PROTECTIVE LAWS, AGREEMENTS, PRO-
 5 GRAMS, AND PLANS.—The rights established for victims
 6 of domestic violence, dating violence, sexual assault, or
 7 stalking under this title shall not be diminished by any
 8 State or local law, collective bargaining agreement, or em-
 9 ployment benefits program or plan.

10 **SEC. 106. REGULATIONS.**

11 (a) IN GENERAL.—

12 (1) AUTHORITY TO ISSUE REGULATIONS.—Ex-
 13 cept as provided in subsections (b), (c), and (d), the
 14 Secretary shall issue regulations to carry out this
 15 title.

16 (2) REGULATIONS REGARDING NOTICES.—The
 17 regulations described in paragraph (1) shall include
 18 regulations requiring every employer to post and
 19 keep posted, in conspicuous places on the premises
 20 of the employer where notices to employees are cus-
 21 tomarily placed, a notice, to be prepared or approved
 22 by the Secretary, summarizing the provisions of this
 23 title and providing information on procedures for fil-
 24 ing complaints. The Secretary shall develop such a

1 notice and provide copies to employers upon request
2 without charge.

3 (b) LIBRARY OF CONGRESS.—The Librarian of Con-
4 gress shall prescribe the regulations described in sub-
5 section (a) with respect to employees of the Library of
6 Congress. The regulations prescribed under this sub-
7 section shall, to the extent appropriate, be consistent with
8 the regulations prescribed by the Secretary under sub-
9 section (a).

10 (c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Of-
11 fice of Personnel Management shall prescribe the regula-
12 tions described in subsection (a) with respect to individ-
13 uals described in subparagraph (A) or (B) of section
14 3(e)(2) of the Fair Labor Standards Act of 1938 (29
15 U.S.C. 203(e)(2)) (other than an individual employed by
16 an entity of the legislative branch of the Federal Govern-
17 ment). The regulations prescribed under this subsection
18 shall, to the extent appropriate, be consistent with the reg-
19 ulations prescribed by the Secretary under subsection (a).

20 (d) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
21 ANCE.—The President shall prescribe the regulations de-
22 scribed in subsection (a) with respect to applicants for and
23 recipients of public assistance, in the case of violations of
24 section 102(f)(1)(C), or section 102(f)(2) due to discrimi-
25 nation described in section 102(f)(1)(C). The regulations

1 prescribed under this subsection shall, to the extent appro-
2 priate, be consistent with the regulations prescribed by the
3 Secretary under subsection (a).

4 **SEC. 107. CONFORMING AMENDMENT.**

5 Section 1003(a)(1) of the Rehabilitation Act Amend-
6 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by
7 inserting “title I or III of the Survivors’ Empowerment
8 and Economic Security Act,” before “or the provisions”.

9 **SEC. 108. EFFECTIVE DATE.**

10 This title and the amendment made by this title take
11 effect 180 days after the date of enactment of this Act.

12 **TITLE II—ENTITLEMENT TO UN-**
13 **EMPLOYMENT COMPENSA-**
14 **TION FOR VICTIMS OF DO-**
15 **MESTIC VIOLENCE, DATING**
16 **VIOLENCE, SEXUAL ASSAULT,**
17 **OR STALKING**

18 **SEC. 201. PURPOSES.**

19 The purposes of this title are, pursuant to the affirm-
20 ative power of Congress to enact legislation under the por-
21 tions of section 8 of article I of the Constitution relating
22 to laying and collecting taxes, providing for the general
23 welfare, and regulation of commerce among the several
24 States, and under section 5 of the 14th amendment to
25 the Constitution—

1 (1) to promote the national interest in reducing
2 domestic violence, dating violence, sexual assault,
3 and stalking by enabling victims of domestic vio-
4 lence, dating violence, sexual assault, or stalking to
5 maintain the financial independence necessary to
6 leave abusive situations, achieve safety, and mini-
7 mize the physical and emotional injuries from do-
8 mestic violence, dating violence, sexual assault, or
9 stalking, and to reduce the devastating economic
10 consequences of domestic violence, dating violence,
11 sexual assault, or stalking to employers and employ-
12 ees;

13 (2) to promote the national interest in ensuring
14 that victims of domestic violence, dating violence,
15 sexual assault, or stalking can recover from and cope
16 with the effects of such victimization and participate
17 in the criminal and civil justice processes without
18 fear of adverse economic consequences;

19 (3) to minimize the negative impact on inter-
20 state commerce from dislocations of employees and
21 harmful effects on productivity, loss of employment,
22 health care costs, and employer costs, caused by do-
23 mestic violence, dating violence, sexual assault, or
24 stalking, including intentional efforts to frustrate

1 the ability of women to participate in employment
2 and interstate commerce;

3 (4) to promote the purposes of the 14th amend-
4 ment to the Constitution by preventing sex-based
5 discrimination and discrimination against victims of
6 domestic violence, dating violence, sexual assault, or
7 stalking in unemployment insurance, by addressing
8 the failure of existing laws to protect the employ-
9 ment rights of victims of domestic violence, dating
10 violence, sexual assault, or stalking, by protecting
11 their civil and economic rights, and by furthering the
12 equal opportunity of women for economic self-suffi-
13 ciency and employment free from discrimination;
14 and

15 (5) to accomplish the purposes described in
16 paragraphs (1) through (4) by providing unemploy-
17 ment insurance to those who are separated from
18 their employment as a result of domestic violence,
19 dating violence, sexual assault, or stalking, in a
20 manner that accommodates the legitimate interests
21 of employers and protects the safety of all persons
22 in the workplace.

1 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**
 2 **PROVISIONS.**

3 (a) UNEMPLOYMENT COMPENSATION.—Section 3304
 4 of the Internal Revenue Code of 1986 (relating to approval
 5 of State unemployment compensation laws) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (18), by striking “and”
 8 at the end;

9 (B) by redesignating paragraph (19) as
 10 paragraph (20); and

11 (C) by inserting after paragraph (18) the
 12 following new paragraph:

13 “(19) compensation shall not be denied where
 14 an individual is separated from employment due to
 15 circumstances resulting from the individual’s experi-
 16 ence of domestic violence, dating violence, sexual as-
 17 sault, or stalking, nor shall States impose additional
 18 conditions that restrict the individual’s eligibility for
 19 or receipt of benefits beyond those required of other
 20 individuals who are forced to leave their jobs or are
 21 deemed to have good cause for voluntarily separating
 22 from a job in the State; and”;

23 (2) by adding at the end the following new sub-
 24 section:

25 “(g) CONSTRUCTION.—For purposes of subsection
 26 (a)(19)—

1 “(1) DOCUMENTATION.—In determining eligi-
 2 bility for compensation due to circumstances result-
 3 ing from an individual’s experience of domestic vio-
 4 lence, dating violence, sexual assault, or stalking—

5 “(A) States shall adopt, or have adopted,
 6 by statute, regulation, or policy a list of forms
 7 of documentation that may be presented to
 8 demonstrate eligibility; and

9 “(B) presentation of any one of such forms
 10 of documentation shall be sufficient to dem-
 11 onstrate eligibility, except that a State may re-
 12 quire the presentation of a form of identifica-
 13 tion in addition to the written statement of
 14 claimant described in paragraph (2)(G).

15 “(2) LIST OF FORMS OF DOCUMENTATION.—
 16 The list referred to in paragraph (1)(A) shall include
 17 not less than 3 of the following forms of documenta-
 18 tion:

19 “(A) An order of protection or other docu-
 20 mentation issued by a court.

21 “(B) A police report or criminal charges
 22 documenting the domestic violence, dating vio-
 23 lence, sexual assault, or stalking.

24 “(C) Documentation that the perpetrator
 25 has been convicted of the offense of domestic vi-

1 olence, dating violence, sexual assault, or stalk-
2 ing.

3 “(D) Medical documentation of the domes-
4 tic violence, dating violence, sexual assault, or
5 stalking.

6 “(E) Evidence of domestic violence, dating
7 violence, sexual assault, or stalking from a
8 counselor, social worker, health worker, or do-
9 mestic violence shelter worker.

10 “(F) A written statement that the appli-
11 cant or the applicant’s minor child is a victim
12 of domestic violence, dating violence, sexual as-
13 sault, or stalking, provided by a social worker,
14 member of the clergy, shelter worker, attorney
15 at law, or other professional who has assisted
16 the applicant in dealing with the domestic vio-
17 lence, dating violence, sexual assault, or stalk-
18 ing.

19 “(G) A written statement of the claimant.

20 “(3) DOMESTIC VIOLENCE, DATING VIOLENCE,
21 SEXUAL ASSAULT, AND STALKING DEFINED.—The
22 terms ‘domestic violence’, ‘dating violence’, ‘sexual
23 assault’, and ‘stalking’ have the meanings given such
24 terms in section 3 of the Survivors’ Empowerment
25 and Economic Security Act.”.

1 (b) UNEMPLOYMENT COMPENSATION PERSONNEL
 2 TRAINING.—Section 303(a) of the Social Security Act (42
 3 U.S.C. 503(a)) is amended—

4 (1) by redesignating paragraphs (4) through
 5 (10) as paragraphs (5) through (11), respectively;
 6 and

7 (2) by inserting after paragraph (3) the fol-
 8 lowing new paragraph:

9 “(4) Such methods of administration as will en-
 10 sure that—

11 “(A) applicants for unemployment com-
 12 pensation and individuals inquiring about such
 13 compensation are adequately notified of the
 14 provisions of subsections (a)(19) and (g) of sec-
 15 tion 3304 of the Internal Revenue Code of 1986
 16 (relating to the availability of unemployment
 17 compensation for victims of domestic violence,
 18 dating violence, sexual assault, or stalking); and

19 “(B) claims reviewers and hearing per-
 20 sonnel are adequately trained in—

21 “(i) the nature and dynamics of do-
 22 mestic violence, dating violence, sexual as-
 23 sault, or stalking (as such terms are de-
 24 fined in section 3 of the Survivors’ Em-

1 powerment and Economic Security Act);
 2 and

3 “(ii) methods of ascertaining and
 4 keeping confidential information about pos-
 5 sible experiences of domestic violence, dat-
 6 ing violence, sexual assault, or stalking (as
 7 so defined) to ensure that—

8 “(I) requests for unemployment
 9 compensation based on separations
 10 stemming from domestic violence, dat-
 11 ing violence, sexual assault, or stalk-
 12 ing (as so defined) are reliably
 13 screened, identified, and adjudicated;
 14 and

15 “(II) full confidentiality is pro-
 16 vided for the individual’s claim and
 17 submitted evidence; and”.

18 (c) TANF PERSONNEL TRAINING.—Section 402(a)
 19 of the Social Security Act (42 U.S.C. 602(a)) is amended
 20 by adding at the end the following new paragraph:

21 “(8) CERTIFICATION THAT THE STATE WILL
 22 PROVIDE INFORMATION TO VICTIMS OF DOMESTIC
 23 VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR
 24 STALKING.—A certification by the chief officer of

1 the State that the State has established and is en-
2 forcing standards and procedures to—

3 “(A) ensure that applicants for assistance
4 under the program and individuals inquiring
5 about such assistance are adequately notified
6 of—

7 “(i) the provisions of subsections
8 (a)(19) and (g) of section 3304 of the In-
9 ternal Revenue Code of 1986 (relating to
10 the availability of unemployment com-
11 pensation for victims of domestic violence,
12 dating violence, sexual assault, or stalk-
13 ing); and

14 “(ii) assistance made available by the
15 State to victims of domestic violence, dat-
16 ing violence, sexual assault, or stalking (as
17 such terms are defined in section 3 of the
18 Survivors’ Empowerment and Economic
19 Security Act);

20 “(B) ensure that case workers and other
21 agency personnel responsible for administering
22 the State program funded under this part are
23 adequately trained in—

1 “(i) the nature and dynamics of do-
2 mestic violence, dating violence, sexual as-
3 sault, or stalking (as so defined);

4 “(ii) State standards and procedures
5 relating to the prevention of, and assist-
6 ance for individuals who experience, do-
7 mestic violence, dating violence, sexual as-
8 sault, or stalking (as so defined); and

9 “(iii) methods of ascertaining and
10 keeping confidential information about pos-
11 sible experiences of domestic violence, dat-
12 ing violence, sexual assault, or stalking (as
13 so defined);

14 “(C) if a State has elected to establish and
15 enforce standards and procedures regarding the
16 screening for and identification of domestic vio-
17 lence pursuant to paragraph (7), ensure that—

18 “(i) applicants for assistance under
19 the program and individuals inquiring
20 about such assistance are adequately noti-
21 fied of options available under such stand-
22 ards and procedures; and

23 “(ii) case workers and other agency
24 personnel responsible for administering the
25 State program funded under this part are

provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

“(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 202(d)(2) of the Survivors’ Empowerment and Economic Security Act).”.

(d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act, as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii)

1 of section 402(a)(8) of the such Act, as
 2 added by subsection (c); and

3 (ii) provide technical assistance with
 4 respect to such model training program;
 5 and

6 (B) grants to State, tribal, or local agen-
 7 cies in order for such agencies to contract with
 8 eligible entities to provide State, tribal, or local
 9 case workers and other State, tribal, or local
 10 agency personnel responsible for administering
 11 the temporary assistance to needy families pro-
 12 gram established under part A of title IV of the
 13 Social Security Act in a State or Indian res-
 14 ervation with the training required under sub-
 15 paragraphs (B) and, if applicable, (C)(ii) of
 16 such section 402(a)(8).

17 (2) ELIGIBLE ENTITY DEFINED.—For purposes
 18 of paragraph (1)(B), the term “eligible entity”
 19 means an entity—

20 (A) that is—

21 (i) a State or tribal domestic violence
 22 coalition or sexual assault coalition;

23 (ii) a State or local victim services or-
 24 ganization with recognized expertise in the
 25 dynamics of domestic violence, dating vio-

1 lence, sexual assault, or stalking whose pri-
2 mary mission is to provide services to vic-
3 tims of domestic violence, dating violence,
4 sexual assault, or stalking, such as a rape
5 crisis center or domestic violence program;
6 or

7 (iii) an organization with dem-
8 onstrated expertise in State or county wel-
9 fare laws and implementation of such laws
10 and experience with disseminating informa-
11 tion on such laws and implementation, but
12 only if such organization will provide the
13 required training in partnership with an
14 entity described in clause (i) or (ii); and

15 (B) that—

16 (i) has demonstrated expertise in both
17 domestic violence and sexual assault, such
18 as a joint domestic violence and sexual as-
19 sault coalition; or

20 (ii) will provide the required training
21 in partnership with an entity described in
22 clause (i) or (ii) of subparagraph (A) in
23 order to comply with the dual domestic vio-
24 lence and sexual assault expertise require-
25 ment under clause (i).

1 (3) APPLICATION.—An entity seeking a grant
2 under this subsection shall submit an application to
3 the Secretary at such time, in such form and man-
4 ner, and containing such information as the Sec-
5 retary specifies.

6 (4) REPORTS.—

7 (A) REPORTS TO CONGRESS.—The Sec-
8 retary shall annually submit a report to Con-
9 gress on the grant program established under
10 this subsection.

11 (B) REPORTS AVAILABLE TO PUBLIC.—
12 The Secretary shall establish procedures for the
13 dissemination to the public of each report sub-
14 mitted under subparagraph (A). Such proce-
15 dures shall include the use of the Internet to
16 disseminate such reports.

17 (5) AUTHORIZATION OF APPROPRIATIONS.—

18 (A) AUTHORIZATION.—There are author-
19 ized to be appropriated—

20 (i) \$1,000,000 for fiscal year 2008 to
21 carry out the provisions of paragraph
22 (1)(A); and

23 (ii) \$12,000,000 for each of fiscal
24 years 2009 through 2011 to carry out the
25 provisions of paragraph (1)(B).

1 (B) THREE-YEAR AVAILABILITY OF GRANT

2 FUNDS.—Each recipient of a grant under this
3 subsection shall return to the Secretary any un-
4 used portion of such grant not later than 3
5 years after the date the grant was awarded, to-
6 gether with any earnings on such unused por-
7 tion.

8 (C) AMOUNTS RETURNED.—Any amounts

9 returned pursuant to subparagraph (B) shall be
10 available without further appropriation to the
11 Secretary for the purpose of carrying out the
12 provisions of paragraph (1)(B).

13 (e) EFFECT ON EXISTING LAWS, ETC.—

14 (1) MORE PROTECTIVE LAWS, AGREEMENTS,

15 PROGRAMS, AND PLANS.—Nothing in this title shall
16 be construed to supersede any provision of any Fed-
17 eral, State, or local law, collective bargaining agree-
18 ment, or employment benefits program or plan that
19 provides greater unemployment insurance benefits
20 for victims of domestic violence, dating violence, sex-
21 ual assault, or stalking than the rights established
22 under this title.

23 (2) LESS PROTECTIVE LAWS, AGREEMENTS,

24 PROGRAMS, AND PLANS.—The rights established for
25 victims of domestic violence, dating violence, sexual

1 assault, or stalking under this title shall not be di-
 2 minished by any more restrictive State or local law,
 3 collective bargaining agreement, or employment ben-
 4 efits program or plan.

5 (f) EFFECTIVE DATE.—

6 (1) UNEMPLOYMENT AMENDMENTS.—

7 (A) IN GENERAL.—Except as provided in
 8 subparagraph (B) and paragraph (2), the
 9 amendments made by this section shall apply in
 10 the case of compensation paid for weeks begin-
 11 ning on or after the expiration of 180 days
 12 from the date of enactment of this Act.

13 (B) EXTENSION OF EFFECTIVE DATE FOR
 14 STATE LAW AMENDMENT.—

15 (i) IN GENERAL.—If the Secretary of
 16 Labor identifies a State as requiring a
 17 change to its statutes, regulations, or poli-
 18 cies in order to comply with the amend-
 19 ments made by this section (excluding the
 20 amendment made by subsection (c)), such
 21 amendments shall apply in the case of
 22 compensation paid for weeks beginning
 23 after the earlier of—

24 (I) the date the State changes its
 25 statutes, regulations, or policies in

1 order to comply with such amend-
 2 ments; or

3 (II) the end of the first session of
 4 the State legislature which begins
 5 after the date of enactment of this
 6 Act or which began prior to such date
 7 and remained in session for at least
 8 25 calendar days after such date;
 9 except that in no case shall such amend-
 10 ments apply before the date that is 180
 11 days after the date of enactment of this
 12 Act.

13 (ii) SESSION DEFINED.—In this sub-
 14 paragraph, the term “session” means a
 15 regular, special, budget, or other session of
 16 a State legislature.

17 (2) TANF AMENDMENT.—

18 (A) IN GENERAL.—Except as provided in
 19 subparagraph (B), the amendment made by
 20 subsection (c) shall take effect on the date of
 21 enactment of this Act.

22 (B) EXTENSION OF EFFECTIVE DATE FOR
 23 STATE LAW AMENDMENT.—In the case of a
 24 State plan under part A of title IV of the Social
 25 Security Act which the Secretary of Health and

1 Human Services determines requires State leg-
2 islation in order for the plan to meet the addi-
3 tional requirements imposed by the amendment
4 made by subsection (c), the State plan shall not
5 be regarded as failing to comply with the re-
6 quirements of such amendment on the basis of
7 its failure to meet these additional requirements
8 before the first day of the first calendar quarter
9 beginning after the close of the first regular
10 session of the State legislature that begins after
11 the date of enactment of this Act. For purposes
12 of the previous sentence, in the case of a State
13 that has a 2-year legislative session, each year
14 of the session is considered to be a separate
15 regular session of the State legislature.

16 **TITLE III—VICTIMS’**
17 **EMPLOYMENT SUSTAINABILITY**

18 **SEC. 301. SHORT TITLE.**

19 This title may be cited as the “Victims’ Employment
20 Sustainability Act”.

21 **SEC. 302. PURPOSES.**

22 The purposes of this title are, pursuant to the affirm-
23 ative power of Congress to enact legislation under the por-
24 tions of section 8 of article I of the Constitution relating
25 to providing for the general welfare and to regulation of

1 commerce among the several States, and under section 5
2 of the 14th amendment to the Constitution—

3 (1) to promote the national interest in reducing
4 domestic violence, dating violence, sexual assault,
5 and stalking by enabling victims of domestic vio-
6 lence, dating violence, sexual assault, or stalking to
7 maintain the financial independence necessary to
8 leave abusive situations, achieve safety, and mini-
9 mize the physical and emotional injuries from do-
10 mestic violence, dating violence, sexual assault, or
11 stalking, and to reduce the devastating economic
12 consequences of domestic violence, dating violence,
13 sexual assault, or stalking to employers and employ-
14 ees;

15 (2) to promote the national interest in ensuring
16 that victims of domestic violence, dating violence,
17 sexual assault, or stalking can recover from and cope
18 with the effects of domestic violence, dating violence,
19 sexual assault, or stalking, and participate in crimi-
20 nal and civil justice processes, without fear of ad-
21 verse economic consequences from their employers;

22 (3) to ensure that victims of domestic violence,
23 dating violence, sexual assault, or stalking can re-
24 cover from and cope with the effects of domestic vio-
25 lence, dating violence, sexual assault, or stalking,

1 and participate in criminal and civil justice proc-
2 esses, without fear of adverse economic consequences
3 with respect to public benefits;

4 (4) to promote the purposes of the 14th amend-
5 ment to the Constitution by preventing sex-based
6 discrimination and discrimination against victims of
7 domestic violence, dating violence, sexual assault, or
8 stalking in employment, by addressing the failure of
9 existing laws to protect the employment rights of
10 victims of domestic violence, dating violence, sexual
11 assault, or stalking, by protecting the civil and eco-
12 nomic rights of victims of domestic violence, dating
13 violence, sexual assault, or stalking, and by fur-
14 thering the equal opportunity of women for economic
15 self-sufficiency and employment free from discrimi-
16 nation;

17 (5) to minimize the negative impact on inter-
18 state commerce from dislocations of employees and
19 harmful effects on productivity, employment, health
20 care costs, and employer costs, caused by domestic
21 violence, dating violence, sexual assault, or stalking,
22 including intentional efforts to frustrate women's
23 ability to participate in employment and interstate
24 commerce; and

1 (6) to accomplish the purposes described in
2 paragraphs (1) through (5) by prohibiting employers
3 from discriminating against actual or perceived vic-
4 tims of domestic violence, dating violence, sexual as-
5 sault, or stalking, in a manner that accommodates
6 the legitimate interests of employers and protects
7 the safety of all persons in the workplace.

8 **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

9 (a) IN GENERAL.—An employer shall not fail to hire,
10 refuse to hire, discharge, or harass any individual, or oth-
11 erwise discriminate against any individual with respect to
12 the compensation, terms, conditions, or privileges of em-
13 ployment of the individual (including retaliation in any
14 form or manner), and a public agency shall not deny, re-
15 duce, or terminate the benefits of, otherwise sanction, or
16 harass any individual, or otherwise discriminate against
17 any individual with respect to the amount, terms, or condi-
18 tions of public assistance of the individual (including retal-
19 iation in any form or manner), because—

20 (1) the individual involved is or the employer or
21 public agency involved perceives that individual to be
22 a victim of domestic violence, dating violence, sexual
23 assault, or stalking;

24 (2) that individual attended, participated in,
25 prepared for, or requested leave to attend, partici-

1 pate in, or prepare for, a criminal or civil court pro-
2 ceeding relating to an incident of domestic violence,
3 dating violence, sexual assault, or stalking of which
4 the individual, or the family or household member of
5 the individual, was a victim;

6 (3) that individual, in response to actual or
7 threatened domestic violence, dating violence, sexual
8 assault, or stalking, requested that the employer or
9 public agency implement a reasonable safety proce-
10 dure or a job-related modification to enhance the se-
11 curity of that individual or safeguard the workplace
12 involved; or

13 (4) the workplace is disrupted or threatened by
14 the action of a person whom that individual states
15 has committed or threatened to commit domestic vi-
16 olence, dating violence, sexual assault, or stalking
17 against that individual, or that individual's family or
18 household member.

19 (b) DEFINITIONS.—In this section:

20 (1) DISCRIMINATE.—The term “discriminate”,
21 used with respect to the terms, conditions, or privi-
22 leges of employment or with respect to the terms or
23 conditions of public assistance, includes failing to
24 implement, on request from an individual, in re-
25 sponse to actual or threatened domestic violence,

1 dating violence, sexual assault, or stalking, a reason-
 2 able safety procedure or a job-related modification to
 3 enhance the security of that individual or safeguard
 4 the workplace (such as installation of a lock, change
 5 of a telephone number or seating assignment, provi-
 6 sion of a transfer, provision of leave, modification of
 7 a schedule, or adjustment of a work requirement),
 8 unless the employer or public agency can dem-
 9 onstrate that granting the request would impose an
 10 undue hardship on the operation of the employer or
 11 public agency.

12 (2) **UNDUE HARDSHIP.**—The term “undue
 13 hardship” means an action requiring significant dif-
 14 ficulty or expense.

15 **SEC. 304. ENFORCEMENT.**

16 (a) **CIVIL ACTION BY INDIVIDUALS.**—

17 (1) **LIABILITY.**—Any employer that violates sec-
 18 tion 303 shall be liable to any individual affected
 19 for—

20 (A) damages equal to the amount of
 21 wages, salary, employment benefits, or other
 22 compensation denied or lost to such individual
 23 by reason of the violation, and the interest on
 24 that amount calculated at the prevailing rate;

1 (B) compensatory damages, including dam-
2 ages for future pecuniary losses, emotional
3 pain, suffering, inconvenience, mental anguish,
4 loss of enjoyment or life, and other nonpecu-
5 niary losses;

6 (C) such punitive damages, up to 3 times
7 the amount of actual damages sustained, as the
8 court described in paragraph (2) shall deter-
9 mine to be appropriate; and

10 (D) such equitable relief as may be appro-
11 priate, including employment, reinstatement,
12 and promotion.

13 (2) RIGHT OF ACTION.—An action to recover
14 the damages or equitable relief prescribed in para-
15 graph (1) may be maintained against any employer
16 in any Federal or State court of competent jurisdic-
17 tion by any 1 or more individuals described in sec-
18 tion 303.

19 (b) ACTION BY DEPARTMENT OF JUSTICE.—The At-
20 torney General may bring a civil action in any Federal
21 or State court of competent jurisdiction to recover the
22 damages or equitable relief described in subsection (a)(1).

23 (c) LIBRARY OF CONGRESS.—Notwithstanding any
24 other provision of this section, in the case of the Library

1 of Congress, the authority of the Secretary under this sec-
 2 tion shall be exercised by the Librarian of Congress.

3 (d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

4 (1) AGENCIES.—Notwithstanding any other
 5 provision of this subsection, in the case of a public
 6 agency that employs individuals as described in sub-
 7 paragraph (A) or (B) of section 3(e)(2) of the Fair
 8 Labor Standards Act of 1938 (29 U.S.C. 203(e)(2))
 9 (other than an entity of the legislative branch of the
 10 Federal Government), paragraph (2) shall apply.

11 (2) AUTHORITY.—In the case described in sub-
 12 paragraph (A), the powers, remedies, and procedures
 13 provided (in the case of a violation of section
 14 2302(b)(1)(A) of title 5, United States Code) in title
 15 5, United States Code, to an employing agency, the
 16 Office of Special Counsel, the Merit Systems Protec-
 17 tion Board, or any person alleging a violation of
 18 such section 2302(b)(1)(A), shall be the powers,
 19 remedies, and procedures this section provides in the
 20 case of a violation of section 303 to that agency,
 21 that Office, that Board, or any person alleging a vio-
 22 lation of section 303, respectively, against an em-
 23 ployee who is such an individual.

24 (e) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
 25 ANCE.—Consistent with regulations prescribed under sec-

tion 306(d), the President shall ensure that any public agency that violates section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance, shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(1)(A) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(B) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(2) such equitable relief as may be appropriate.

SEC. 305. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting “the Victims’ Employment Sustainability Act,” after “title VI of the Civil Rights Act of 1964,”.

SEC. 306. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of

1 Congress. The regulations prescribed under this sub-
2 section shall, to the extent appropriate, be consistent with
3 the regulations prescribed by the Secretary under sub-
4 section (a).

5 (c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Of-
6 fice of Personnel Management, after consultation under
7 the Office of Special Counsel and the Merit Systems Pro-
8 tection Board, shall prescribe the regulations described in
9 subsection (a) with respect to individuals described in sub-
10 paragraph (A) or (B) of section 3(e)(2) of the Fair Labor
11 Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than
12 an individual employed by an entity of the legislative
13 branch of the Federal Government). The regulations pre-
14 scribed under this subsection shall, to the extent appro-
15 priate, be consistent with the regulations prescribed by the
16 Secretary under subsection (a).

17 (d) PUBLIC AGENCIES PROVIDING PUBLIC ASSIST-
18 ANCE.—The President shall prescribe the regulations de-
19 scribed in subsection (a) with respect to applicants for and
20 recipients of public assistance, in the case of violations of
21 section 303(a) by taking an action prohibited under sec-
22 tion 303(a) against any individual with respect to the
23 amount, terms, or conditions of public assistance. The reg-
24 ulations prescribed under this subsection shall, to the ex-

1 tent appropriate, be consistent with the regulations pre-
 2 scribed by the Secretary under subsection (a).

3 **TITLE IV—VICTIMS OF ABUSE** 4 **INSURANCE PROTECTION**

5 **SEC. 401. SHORT TITLE.**

6 This title may be cited as the “Victims of Abuse In-
 7 surance Protection Act”.

8 **SEC. 402. DEFINITIONS.**

9 In this title:

10 (1) ABUSE.—The term “abuse” means the oc-
 11 currence of 1 or more of the following acts by a cur-
 12 rent or former household or family member, intimate
 13 partner, or caretaker:

14 (A) Attempting to cause or causing an-
 15 other person bodily injury, physical harm, sub-
 16 stantial emotional distress, or psychological
 17 trauma.

18 (B) Attempting to engage in or engaging
 19 in rape, sexual assault, or involuntary sexual
 20 intercourse.

21 (C) Engaging in a course of conduct or re-
 22 peatedly committing acts toward another per-
 23 son, including following the person without
 24 proper authority and under circumstances that

1 place the person in reasonable fear of bodily in-
2 jury or physical harm.

3 (D) Subjecting another person to false im-
4 prisonment or kidnapping.

5 (E) Attempting to cause or causing dam-
6 age to property so as to intimidate or attempt
7 to control the behavior of another person.

8 (2) HEALTH CARRIER.—The term “health car-
9 rier” means a person that contracts or offers to con-
10 tract on a risk-assuming basis to provide, deliver, ar-
11 range for, pay for, or reimburse any of the cost of
12 health care services, including a sickness and acci-
13 dent insurance company, a health maintenance orga-
14 nization, a nonprofit hospital and health service cor-
15 poration, or any other entity providing a plan of
16 health insurance, health benefits, or health services.

17 (3) INSURED.—The term “insured” means a
18 party named on a policy, certificate, or health ben-
19 efit plan, including an individual, corporation, part-
20 nership, association, unincorporated organization, or
21 any similar entity, as the person with legal rights to
22 the benefits provided by the policy, certificate, or
23 health benefit plan. For group insurance, the term
24 includes a person who is a beneficiary covered by a
25 group policy, certificate, or health benefit plan. For

1 life insurance, the term refers to the person whose
2 life is covered under an insurance policy.

3 (4) INSURER.—The term “insurer” means any
4 person, reciprocal exchange, inter insurer, Lloyds in-
5 surer, fraternal benefit society, or other legal entity
6 engaged in the business of insurance, including
7 agents, brokers, adjusters, and third-party adminis-
8 trators. The term includes employers who provide or
9 make available employment benefits through an em-
10 ployee benefit plan, as defined in section 3(3) of the
11 Employee Retirement Income Security Act of 1974
12 (29 U.S.C. 102(3)). The term also includes health
13 carriers, health benefit plans, and life, disability, and
14 property and casualty insurers.

15 (5) POLICY.—The term “policy” means a con-
16 tract of insurance, certificate, indemnity, suretyship,
17 or annuity issued, proposed for issuance, or intended
18 for issuance by an insurer, including endorsements
19 or riders to an insurance policy or contract.

20 (6) SUBJECT OF ABUSE.—The term “subject of
21 abuse” means—

22 (A) a person against whom an act of abuse
23 has been directed;

1 (B) a person who has prior or current in-
2 juries, illnesses, or disorders that resulted from
3 abuse; or

4 (C) a person who seeks, may have sought,
5 or had reason to seek medical or psychological
6 treatment for abuse, protection, court-ordered
7 protection, or shelter from abuse.

8 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

9 (a) IN GENERAL.—No insurer may, directly or indi-
10 rectly, engage in any of the following acts or practices on
11 the basis that the applicant or insured, or any person em-
12 ployed by the applicant or insured or with whom the appli-
13 cant or insured is known to have a relationship or associa-
14 tion, is, has been, or may be the subject of abuse or has
15 incurred or may incur abuse-related claims:

16 (1) Denying, refusing to issue, renew, or re-
17 issue, or canceling or otherwise terminating an in-
18 surance policy or health benefit plan.

19 (2) Restricting, excluding, or limiting insurance
20 coverage for losses or denying a claim, except as oth-
21 erwise permitted or required by State laws relating
22 to life insurance beneficiaries.

23 (3) Adding a premium differential to any insur-
24 ance policy or health benefit plan.

1 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No
2 insurer may, directly or indirectly, deny or limit payment
3 to an insured who is a subject of abuse if the claim for
4 payment is a result of the abuse.

5 (c) PROHIBITION ON TERMINATION.—

6 (1) IN GENERAL.—No insurer or health carrier
7 may terminate health coverage for a subject of abuse
8 because coverage was originally issued in the name
9 of the abuser and the abuser has divorced, separated
10 from, or lost custody of the subject of abuse or the
11 abuser's coverage has terminated voluntarily or in-
12 voluntarily and the subject of abuse does not qualify
13 for an extension of coverage under part 6 of subtitle
14 B of title I of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1161 et seq.) or sec-
16 tion 4980B of the Internal Revenue Code of 1986.

17 (2) PAYMENT OF PREMIUMS.—Nothing in para-
18 graph (1) shall be construed to prohibit the insurer
19 from requiring that the subject of abuse pay the full
20 premium for the subject's coverage under the health
21 plan if the requirements are applied to all insured of
22 the health carrier.

23 (3) EXCEPTION.—An insurer may terminate
24 group coverage to which this subsection applies after
25 the continuation coverage period required by this

subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) CONTINUATION COVERAGE.—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) USE OF INFORMATION.—

(1) LIMITATION.—

(A) IN GENERAL.—In order to protect the safety and privacy of subjects of abuse, no person employed by or contracting with an insurer or health benefit plan may (without the consent of the subject)—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions, or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for

1 any purpose unrelated to the direct provi-
2 sion of health care services unless such
3 use, disclosure, or transfer is required by
4 an order of an entity with authority to reg-
5 ulate insurance or an order of a court of
6 competent jurisdiction; or

7 (ii) disclose or transfer information
8 relating to an applicant's or insured's mail-
9 ing address or telephone number or the
10 mailing address and telephone number of a
11 shelter for subjects of abuse, unless such
12 disclosure or transfer—

13 (I) is required in order to provide
14 insurance coverage; and

15 (II) does not have the potential
16 to endanger the safety of a subject of
17 abuse.

18 (B) RULE OF CONSTRUCTION.—Nothing in
19 this paragraph may be construed to limit or
20 preclude a subject of abuse from obtaining the
21 subject's own insurance records from an in-
22 surer.

23 (2) AUTHORITY OF SUBJECT OF ABUSE.—A
24 subject of abuse, at the absolute discretion of the
25 subject of abuse, may provide evidence of abuse to

1 an insurer for the limited purpose of facilitating
2 treatment of an abuse-related condition or dem-
3 onstrating that a condition is abuse-related. Nothing
4 in this paragraph shall be construed as authorizing
5 an insurer or health carrier to disregard such pro-
6 vided evidence.

7 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**
8 **ABUSE.**

9 Insurers shall develop and adhere to written policies
10 specifying procedures to be followed by employees, con-
11 tractors, producers, agents, and brokers for the purpose
12 of protecting the safety and privacy of a subject of abuse
13 and otherwise implementing this title when taking an ap-
14 plication, investigating a claim, or taking any other action
15 relating to a policy or claim involving a subject of abuse.

16 **SEC. 405. REASONS FOR ADVERSE ACTIONS.**

17 An insurer that takes an action that adversely affects
18 a subject of abuse, shall advise the applicant or insured
19 who is the subject of abuse of the specific reasons for the
20 action in writing. For purposes of this section, reference
21 to general underwriting practices or guidelines shall not
22 constitute a specific reason.

23 **SEC. 406. LIFE INSURANCE.**

24 Nothing in this title shall be construed to prohibit
25 a life insurer from declining to issue a life insurance policy

1 if the applicant or prospective owner of the policy is or
2 would be designated as a beneficiary of the policy, and
3 if—

4 (1) the applicant or prospective owner of the
5 policy lacks an insurable interest in the insured; or

6 (2) the applicant or prospective owner of the
7 policy is known, on the basis of police or court
8 records, to have committed an act of abuse against
9 the proposed insured.

10 **SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.**

11 Subrogation of claims resulting from abuse is prohib-
12 ited without the informed consent of the subject of abuse.

13 **SEC. 408. ENFORCEMENT.**

14 (a) **FEDERAL TRADE COMMISSION.**—Any act or
15 practice prohibited by this title shall be treated as an un-
16 fair and deceptive act or practice pursuant to section 5
17 of the Federal Trade Commission Act (15 U.S.C. 45) and
18 the Federal Trade Commission shall enforce this title in
19 the same manner, by the same means, and with the same
20 jurisdiction, powers, and duties as though all applicable
21 terms and provisions of the Federal Trade Commission
22 Act were incorporated into and made a part of this title,
23 including issuing a cease and desist order granting any
24 individual relief warranted under the circumstances, in-

1 cluding temporary, preliminary, and permanent injunctive
2 relief and compensatory damages.

3 (b) PRIVATE CAUSE OF ACTION.—

4 (1) IN GENERAL.—An applicant or insured who
5 believes that the applicant or insured has been ad-
6 versely affected by an act or practice of an insurer
7 in violation of this title may maintain an action
8 against the insurer in a Federal or State court of
9 original jurisdiction.

10 (2) RELIEF.—Upon proof of such conduct by a
11 preponderance of the evidence in an action described
12 in paragraph (1), the court may award appropriate
13 relief, including temporary, preliminary, and perma-
14 nent injunctive relief and compensatory and punitive
15 damages, as well as the costs of suit and reasonable
16 fees for the aggrieved individual's attorneys and ex-
17 pert witnesses.

18 (3) STATUTORY DAMAGES.—With respect to
19 compensatory damages in an action described in
20 paragraph (1), the aggrieved individual may elect, at
21 any time prior to the rendering of final judgment, to
22 recover in lieu of actual damages, an award of statu-
23 tory damages in the amount of \$5,000 for each vio-
24 lation.

1 **SEC. 409. EFFECTIVE DATE.**

2 This title shall apply with respect to any action taken
3 on or after the date of enactment of this Act.

4 **TITLE V—SEVERABILITY**

5 **SEC. 501. SEVERABILITY.**

6 If any provision of this Act, any amendment made
7 by this Act, or the application of such provision or amend-
8 ment to any person or circumstance is held to be unconsti-
9 tutional, the remainder of the provisions of this Act, the
10 amendments made by this Act, and the application of such
11 provisions or amendments to any person or circumstance
12 shall not be affected.

○